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Education  
Choice & Innovation

Committee Meeting  
March 21, 2006

Meeting Packet



# **The Florida House of Representatives**

**Education Council**

**Choice & Innovation Committee**

**Allan G. Bense**  
**Speaker**

**John Stargel**  
**Chair**

## **MEETING AGENDA**

**March 21, 2006**

**214 Capitol, 2:15-5:15 PM**

- I. Call to Order**
- II. Chairman's Remarks**
- III. Consideration of the following bills:**
  - PCB CI 06-04 by Legg -- Multiple Authorizers**
- IV. Closing Comments**
- V. Adjournment**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB CI 06-04                      Multiple Authorizers  
**SPONSOR(S):** Choice & Innovation Committee  
**TIED BILLS:**                                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee		Kooi	Kooi
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

### SUMMARY ANALYSIS

The bill sets forth legislative findings regarding the benefits and challenges of the state's charter schools and provides legislative intent to establish a state-level commission to sponsor and support charter schools and to authorize municipalities, state universities, community colleges, and regional consortia as cosponsors of charter schools throughout the state.

The bill establishes the Florida Schools of Excellence Commission whose members are appointed by the State Board of Education through recommendations by the Governor, the President of the Senate, and the Speaker of the House, and provides for funding, and an executive director and staff. It further provides a list of powers and duties of the commission, including the power to sponsor charter schools, the power to approve the cosponsors listed above to cosponsor charter schools, and duties relating to support of those approved charter schools and cosponsors.

The bill sets forth timelines, processes and criteria for the review, approval, denial, termination, and non-renewal of cosponsors. It also provides timelines as well as rights and obligations to be included in an agreement negotiated and entered into by the commission and its various individual cosponsors.

The bill incorporates by reference a number of subsections within current charter school law including, but not limited to, provisions relating to receiving, reviewing and approving or denying charter school applications. It also provides for the appellate rights of denied applicants. It further allows existing charter schools previously approved and chartered through a district school board to apply and contract with the commission or one of its cosponsors as long as the charter school is free of further contractual obligations with the district school board.

The bill requires the commission to annually report to the State Board of Education and provides rulemaking authority to the State Board of Education.

The bill will have a significant, but indeterminate fiscal impact. Please see the FISCAL ANALYSIS section of this analysis.

The bill may involve constitutional issues which are discussed in detail in the CONSTITUTIONAL ISSUES section of this analysis.

The bill provides for an effective date of July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Provide limited government-* The bill establishes the Florida Schools of Excellence Commission under the supervision of the State Board of Education (SBE) for the development and support of charter schools. The bill provides the SBE with rulemaking authority and establishes the powers and duties of the commission. The bill would alleviate some of the administrative burden on school districts in relation to their duties to monitor charter schools. The bill increases the SBE's authority to resolve the appeals of denied charter school applicants by the commission, and also creates the authority for the commission to revoke its approval of a cosponsor after providing due process.

*Safeguard individual liberty-* The bill increases the options of charter school applicants to apply to the commission and cosponsoring entities. Charter school applicants will be able to access new sources of community support and expertise through this commission.

*Empower families –* The bill will likely lead to more charter schools in more areas and should provide increased educational options for parents and their school-aged children.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

##### *Authorizers*

Across the nation, states differ in their administration, implementation, and oversight of charter schools. Charter school authorizers are entities charged with oversight of individual charter schools. According to the Education Commission of the States (ECS) Issue Brief: *A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, during the 2004-05 school year, there were over 800 charter school authorizers across the country, 700 of those being local school boards.<sup>1</sup> Alternative forms of charter school governance have received significant attention in the recent past due to the growing recognition that authorizers are vital components to the success of charter schools. Examples of alternative authorizers include independent special-purpose charter boards, intermediate or regional educational entities, and mayors.

The authorizer's functions include, but are not limited to, continuous monitoring of charter schools so that they are able to deal with issues that arise at an early stage, ensuring academic and financial accountability, offering technical assistance such as workshops or providing referrals, advocating to agencies on behalf of the charter school to reduce school burdens, and garnering community support.<sup>2</sup> According to ECS, during the development of initial state charter school laws, the charter school authorizer's role was overlooked.

Consequently, there is a growing recognition that effective authorizing is essential to the success of charter schools. According to ECS, many states are interested in utilizing entities other than local school boards to authorize charter schools because local school districts are often too constrained with managing, addressing, and correcting the problems of the existing public schools within their district.

<sup>1</sup> Hassel, Bryan, Todd Ziebarth and Lucy Steiner, *Education Commission of the States (ECS) Issue Brief: A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, Denver, Co: Education Commission of the States, September 2005, p.2.

<sup>2</sup> Presentation by Mark Cannon, Executive Director of National Association of Charter School Authorizers (NASCA), to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation: *Authorizer Role in Increasing the Number of Quality Charter Schools*.

Local school district resources and personnel are limited; therefore, charter schools may not always receive the oversight and assistance that is needed to operate a successful charter school.

### *Florida Charter School Law*

The Florida Legislature authorized charter schools in 1996. Currently, for the 2005-2006 school year, 92,158 students attend the 333 charter schools in Florida. As provided in section 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under Florida law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.<sup>3</sup> Additionally, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida are currently authorized to grant charters and sponsor development research (laboratory) schools created under section 1002.32, F.S.<sup>4</sup>

Pursuant to current law, charter schools enter into an agreement (charter) with the local district school board that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Pursuant to section 1002.33(16), F.S., charter schools are free from many state regulations and mandates. However, they are still held accountable to the district sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

### *Identified Challenges*

In spite of the tremendous popularity and growth of the number of charter schools within the state, they are still faced with several challenges that make their efforts to provide innovative and high quality educational options to parents more difficult. The challenges most often cited by charter schools include financial deficits, particularly among new schools, district provision of administrative services, and a lack of communication and support among charter schools and school districts.

The number of charter schools with a financial deficit<sup>5</sup> increased from 18% in 1999-00 to 29% in 2002-03.<sup>6</sup> New charter schools, schools that have been in existence for 1-2 years, have the highest deficit rate among charter schools at approximately 38%, whereas charter schools that have been in existence for 3-4 years and 5-7 years have a deficit rate of 20% and 21%, respectively.<sup>7</sup>

Charter schools face considerable financial difficulties related to start-up and facilities related costs, inaccurate enrollment projections, lack of financial management practices, and lack of economies of scale. These challenges put charter schools at risk for chronic financial deficits. Furthermore, the frequent lack of expertise in education budgeting and finance and lack of familiarity with government accounting conventions can lead to an inability to generate complete, accurate, and timely financial

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<sup>3</sup> Sections 1002.33(5),(6), F.S.

<sup>4</sup> Section 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

<sup>5</sup> As determined in the Auditor General's Report Number 2005-054, charter schools operating with an end-of-year financial deficit are those charter schools that ended the year with a deficit of unreserved balance in their general fund (for statements using the governmental model) or deficit unrestricted net assets in their unrestricted fund (for statements using the not-for-profit model); Office of Program Policy Analysis and Government Accountability (OPPAGA) Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 8.

<sup>6</sup> Presentation by Jane Fletcher, Staff Director, Education, of OPPAGA, to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation:

*Charter School Review.*

<sup>7</sup> *Id.*

data making the identification and assistance of charter schools with deteriorating financial conditions even more challenging.<sup>8</sup>

Under Florida law, a school district sponsor is required to provide the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. The school district providing these services is authorized to withhold up to 5% of the charter school's per student funding as payment for the provision of these services.<sup>9</sup> Many charter schools complain that some districts are not providing all of the statutorily required services, and districts often question whether the 5% administrative fee generates an adequate amount of money for school districts to fulfill their responsibilities to charter schools.

Perhaps the biggest challenge facing the success of charter schools today is communication among charter schools and school districts. School district attitudes toward charter schools as well as their provision of services and communication has, in many cases, improved since Florida's first charters were opened approximately ten years ago. Nevertheless, there may always be a certain degree of tension involved in the relationships of school districts and charter schools due to the inherently adversarial nature of such relationships.<sup>10</sup> This tension is problematic given the fact that cooperation between the two parties is often critical in providing a high quality education to charter school children.

### **Effects of Proposed Changes**

#### *Establishment of a state-level charter school commission*

The bill sets forth findings related to the contributions made by charter schools throughout the state, specifically, the valuable role charter schools play in providing high quality options to parents and their children, and the importance of charter schools in improving student performance and the quality of all public schools.

It states legislative intent to establish a state-level commission that will place its sole focus on the development and support of charter schools. It indicates legislative intent to seek the support and partnership of entities such as municipalities, universities, community colleges and regional educational consortia as cosponsors of charter schools for the purpose of accessing new sources of community support and expertise.

The bill establishes the Florida Schools of Excellence Commission (commission) under the supervision of the State Board of Education. The bill provides for startup funds to be appropriated by the legislature, but specifically authorizes the commission to seek and utilize funds through private donations as well as public and private grants to assist in the startup.

The bill provides that the commission be composed of seven members appointed by the Governor (3), the President of the Senate (2), and the Speaker of the House (2), and requires that such appointments be made by September 1, 2006. The member terms are staggered one and two year terms initially, and then set at two years thereafter. A process for filling vacancies is also provided.

The bill requires monthly meetings of the commission and encourages the commission to schedule its first meeting no later than October 1, 2006. It provides for the appointment of an executive director to employ staff to handle the necessary administrative support for the commission.

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<sup>8</sup> *Id.* at 1.

<sup>9</sup> Section 1002.33(20), F.S.

<sup>10</sup> See Alachua County response to charter school survey conducted by the Florida Association of District School Superintendents

### *Commission powers and duties*

The bill gives the commission the power to review applications and approve and sponsor charter schools. It also provides the commission with the power to terminate or not renew their sponsored charter schools. The requirements and process provided for the commission's review of charter applications is the same as that required of school districts' review of current charter applications as set forth in section 1002.33(6), F.S. The process and causes for termination are as set forth in section 1002.33(8), F.S., which is the current provision for termination and non-renewal of school district sponsored charter schools.

The bill empowers the commission to authorize municipalities, state universities, community colleges, and regional consortia to review, approve, and deny charter school applications. These entities would then act as cosponsors of charter schools. It also provides the commission with authority to terminate or not renew the cosponsors that it approves.

The bill indicates legislative intent to include municipalities, state universities, community colleges, and regional consortia as cosponsors of charter schools for the purpose of accessing the type of community support and resources that such entities have to offer. In setting forth the duties of the commission the bill specifically requires that the commission's cosponsoring relationship with state universities and community colleges allow for dual enrollment and a determination of the feasibility of cooperating with Centers for Autism and Related Disabilities to provide high quality educational options to parents of autistic children.<sup>11</sup>

The bill sets forth numerous duties of the commission aimed at providing greater expertise in approving and developing high quality charter schools, providing responsive academic and budgetary technical support, promoting accountability, seeking private funding, and alleviating administrative burdens of school districts that currently sponsor charter schools. It incorporates the monitoring requirements of section 1002.33(5)(b), F.S., and the administrative services requirements of section 1002.33(20), F.S. for charter schools approved by the commission.<sup>12</sup>

Although the bill provides that cosponsors would be primarily responsible for the provision of administrative services to the charter schools they sponsor, the duties of the commission indicate an intent that the commission act as a partner with its cosponsor in providing technical assistance and access to expertise at a state and national level regarding matters such as Exceptional Student Education services, English for Speakers of Other Languages, and other specialized areas.

### *Cosponsor applications*

The bill requires that the commission begin accepting applications from cosponsors that wish to submit them no later than January 31, 2007. It provides the commission with a 90-day timeline to review and approve or deny the application, though this 90-day requirement may be waived by the applicant. The January 31, 2007 starting date is intended to allow cosponsors to be approved to begin accepting charter school applications on or before September 1, 2007, as set forth in section 1002.33(6)(b), F.S.

The bill requires that the commission limit the number of charter schools that a cosponsor may approve. However, the cosponsor may apply to raise this limit at some point in the future. This will ensure that a cosponsor is able to demonstrate that it has the capacity, expertise, and commitment to approve, develop and maintain high quality charter schools before allowing the number of its charter schools to increase.

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<sup>11</sup> Known as CARD centers, these entities are operate through several universities throughout the state, are staffed by individuals with superior expertise in dealing with autistic children, and are established under section 1004.55, F.S., to research and provide nonresidential assistance and training to parents in diagnosing, treating and educating their autistic children.

<sup>12</sup> As noted above, these services include: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.



The bill requires that in order to be approved as a cosponsor, the eligible entity must provide evidence in its application that it has, or can contractually provide, the capacity and expertise necessary to provide what is required to sponsor a charter school. It requires a demonstrated commitment to raising and contributing financial resources, providing equal access to all children, maintaining a diverse student population, and focusing on low-income, low performing and underserved children. It requires articulated accountability goals and a policy to prevent conflicts of interest.

The bill states that the commission's decision whether to approve or deny a cosponsor application is not subject to the processes set forth in the Administrative Procedures Act<sup>13</sup>, but is instead subject to the same process set out in the current charter school statute for the appeal of charter application denials to the State Board of Education.

#### *Cosponsor agreements*

The bill requires that the commission and its cosponsors enter into an agreement which sets forth rights and obligations, many of which are set forth in the application requirements noted above. The agreement must include explanations of how facilities and assets of dissolved charter schools will be handled, and a provision requiring that the cosponsor report student enrollment to the local school district school board for funding purposes. The agreement must also include provisions requiring cosponsors to annually appear before and provide a report to the commission on its charter schools and to assist in providing commission reports to the State Board of Education.

The bill provides for discretion on the part of the commission in defining additional reasonable terms within the agreement that it deems are necessary given the unique characteristics of the particular sponsoring entity. Unique characteristics would be likely to exist in any cosponsor, and is particularly likely with different municipalities. Such characteristics may include the size of the city, the demographics of its student population, or even the demographics of the local school district and how a municipal charter might affect other schools within that school district. This provision would provide the commission with discretion in crafting an agreement that meets the unique needs of the cosponsor while still protecting the welfare and interests of children in the surrounding schools.

The bill prohibits any potential cosponsor from receiving applications prior to officially executing its cosponsor agreement with the commission. It states that the agreement must be proposed and negotiated within six months of approval of the cosponsor application as currently provided in section 1002.33(6)(h), F.S.,<sup>14</sup> and that it shall be attached to and govern any charter school contract entered into by the cosponsor.

#### *Cosponsor revocation*

The bill states that the commission may revoke its approval of a cosponsor after providing due process in the form of notice and a hearing as set forth in State Board of Education rule. The approval must be revoked if, after the hearing, the commission finds that the cosponsor is not in compliance, or is not willing to comply with its cosponsor agreement.

The commission is authorized to immediately assume sponsorship of any schools that were sponsored by the revoked cosponsor. The assumption of sponsorship may remain permanent if the commission so desires, or the commission may work with the charter school and the local school district to facilitate application and approval of a charter with the district.

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<sup>13</sup> Ch. 120, F.S.

<sup>14</sup> The bill cross references section 1002.33(6)(i), F.S., due to the fact that Section 2 of the bill rennumbers the relevant paragraph.

### *Charter school applications*

The bill states that charter applications that are submitted to the commission or any of its approved cosponsors must contain the same information as required in section 1002.33(6), F.S. It also provides that such applications will be reviewed and approved or rejected in accordance with the terms set forth in current charter school law.<sup>15</sup> It also sets forth timelines by which the applications must be received and reviewed, and provides for an appeal process for application denials, including review by the Charter School Appeal Commission and the State Board of Education.

The bill amends current law regarding application process and review so that in order to exercise the right to appeal a school district's application denial, a charter school must have submitted the same or a substantially similar application to the commission or one of its cosponsors. If the applicant has not yet been denied by the commission or one of its cosponsors it must file the application with one of those entities the following August and if it is denied again, the applicant will then have thirty days to file its appeal of the district's denial. This provision and the existence of multiple authorizers should significantly reduce the number of appeals as well as reducing the likelihood that a district will be forced to sponsor a charter applicant that it has rejected.

The bill allows currently existing charter schools that have been approved and operating under a charter with a school district to apply to and enter into a new contract with the commission or one of its cosponsors. However, the bill clarifies that only charter schools whose contract has expired or whose school district sponsor agrees to rescind a current contract may enter into a new contract with the commission or a cosponsor. Finally, the bill provides that a charter school that switches sponsors must be allowed to continue to utilize the facilities and equipment it has been using under its contract with the school district.

### *Incorporation of the charter school statute*

The bill incorporates by reference, sections 1002.33(7)-(12), (14), and (16)-(19), F.S. Section 1002.33(7), F.S., deals with the numerous items and issues that must be included in a charter contract between charter schools and their sponsors. These include issues relating to mission, curriculum, instructional strategies, student performance expectations, admissions, financial and administrative management, term of the contract, facilities, teacher qualifications, governance structure, renewal, and modification.

Section 1002.33(8), F.S., sets forth the causes by which a charter contract may be revoked or not be renewed. The causes include student performance, fiscal mismanagement, violations of law and other good cause. It also provides for 90-day notice by the sponsor prior to non-renewal or revocation with the opportunity for an informal hearing upon receipt of the notice. There is also a provision for immediate revocation for good cause or to protect the health, safety and welfare of the students. Finally, this incorporated subsection provides for the disposition of remaining debts and assets of the charter school upon termination or non-renewal.

Section 1002.33(9), F.S., provides requirements for charter schools, including accountability, compliance with laws and rules, annual financial audits, and other financial reporting requirements. It also requires the governing board of the charter school to exercise oversight, and report to its sponsor regarding student achievement data, financial status, facilities and personnel issues.

Section 1002.33(10), F.S., addresses the eligibility of students for enrollment at a charter school. It requires that the charter school be open to any child residing in the district and requires that random selection process be implemented if the number of applicants exceed the number of seats available. This incorporated subsection allows enrollment preference in somewhat limited circumstances and allows a charter school to limit its enrollment to target a certain student population by age, students

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<sup>15</sup> Section 1002.33(6), F.S., provides for the application process and review of charter schools.

considered to be dropout risks, charter schools in the workplace or municipality, students within a reasonable distance of the charter school, students who meet certain academic, artistic, or other eligibility standards, and students from a feeder pattern of the charter school.

Section 1002.33(11), F.S., allows charter school students to participate in interscholastic extracurricular activities at the public school to which the student would be otherwise assigned to attend.

Section 1002.33(12), F.S., addresses charter school employees providing that a charter school may select its own employees and that such employees have the option to bargain collectively. It provides options as to the organization of such employees and allows them to take leave from employment with a school district while employed at a charter school without forfeiting seniority and other benefits of school district employment. It further requires that charter school teachers be certified, that charter schools and their employees are governed by the provisions of section 768.28, F.S., relating to sovereign immunity, and that employees of charter schools that are considered public employers may participate in the Florida Retirement System.

Section 1002.33(14), F.S., requires that any arrangement entered into by a charter school to borrow or secure funds must indemnify the state and the school district from liability and clarifies that such debts not obligations of the state or school district.

Section 1002.33(16), F.S., provides exemption for charter schools from numerous statutory requirements in the school code. Statutes relating to student assessment and school grades, the provision of services to student with disabilities, civil rights, and health, safety and welfare, and open meeting and public records continue to apply to charter schools.

Section 1002.33(17), F.S., provides for funding of students in charter schools. It requires that charter schools report student enrollment to their sponsor and sets forth a per student funding formula that includes Florida Education Finance Program funds, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy. It specifies an eligible charter school's entitlement to federal funds for provision of services to eligible students. It requires timely reimbursement and processing of paperwork required to access federal funding by the school district and provides for payment of interest on late reimbursements.

Section 1002.33(18), F.S., sets forth standards for charter school facilities. It specifies that charter schools may choose whether to comply with the Florida Building Code or the State Requirements for Educational Facilities. It requires charter school facilities' compliance with the Florida Fire Prevention Code, exempts them from ad valorem taxes, permit fees, building licenses, impact fees, and service availability fees. It requires that school district surplus property be made available for use by charter schools and allows the designation of impact fees for charter school facilities where the school facility is created to mitigate the impact of development.

Section 1002.33(19), F.S., provides that charter schools are eligible for charter school capital outlay funding pursuant to section 1013.62, F.S.

#### *Charter school information and annual report*

The bill requires that the commission be a source of information for parents throughout the state by maintaining information technology to allow parents to make informed educational choices for their children. It also requires the commission to provide an annual report to the State Board of Education regarding the academic performance and fiscal responsibility of all charter schools and cosponsors approved under this new section. Finally, it provides the State Board of Education with rulemaking authority necessary to facilitate the implementation of this new section.

## C. SECTION DIRECTORY:

**Section 1.** Creates section 1002.335, F.S.; establishing the Florida Schools of Excellence Commission as a charter authorizing entity; providing legislative findings and intent; providing startup funds; providing for membership and powers and duties of the Commission; requiring collaboration with identified entities for cosponsoring of charter schools; providing approval requirements of cosponsors; providing components for and revocation of cosponsor agreements; providing for charter application and review procedures; authorizing existing charter schools to apply; providing for application of specified provisions of law; requiring access to information by parents; requiring annual report by Commission; requiring rulemaking.

**Section 2.** Amends section 1002.33, F.S., providing requirements for right to appeal application denial; revising provisions relating to student funding; revising provisions related to facilities.

**Section 3.** Provides for an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not impact state government revenues.

#### 2. Expenditures:

The bill will require an appropriation for startup funds for the commission and its staff for the 2006-2007 fiscal year.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not impact local government revenues.

#### 2. Expenditures:

The bill would likely impact expenditures of municipalities and community colleges that chose to become cosponsors. The impact is indeterminate.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would not have a significant impact on the private sector.

### D. FISCAL COMMENTS:

The bill would impact school districts to the extent that they would no longer be able to withhold the 5% administrative fee for providing services to charter schools that chose to contract with the commission or one of its cosponsors. However, the costs saved from no longer being responsible to provide those services should balance this reduction in revenue.

The bill establishes funding of a new state entity that will have immediate staffing and location needs. At this time, it is indeterminate what the cost of these needs will be. The staffing needs of the commission are likely to increase as the number of charter schools approved under the authority of the commission and its cosponsors grows.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

Section 4 of Article 9 of the State Constitution states that each county shall constitute a school district and that the district school board "shall operate, control and supervise all free public schools within the school district..." The bill allows an independent board or cosponsors in the form of municipalities, universities, community colleges, and regional consortia to authorize charter schools.

However, Section 2 of Article 9 of the State Constitution provides that the State Board of Education shall "have such supervision of the system of free public education as is provided by law." This provision requires that the State Board of Education must supervise public education in the manner and to the extent provided by the Legislature. Such language also suggests flexibility in the way the Legislature may determine how the State Board must exercise such supervision.

The Legislature has previously exercised this flexibility with the establishment of other public schools that are not under the control of school districts, including charter lab schools established under section 1002.32, F.S., the Florida Virtual School, and the Florida School for the Deaf and Blind. These other examples reflect the Legislature's authority to direct the State Board of Education's supervision of the overall "system of free public education" under Section 2 of Article 9, as opposed to the traditional school district-controlled "free public schools" referenced more specifically in Section 4 of Article 9.

The bill provides for a statewide commission that is supervised and appointed by the State Board of Education. The commission is specifically required to report to the State Board of Education regarding the academic performance and fiscal responsibility of all charter schools approved and maintained by the commission or one of its cosponsors. The commission's rulings regarding revocation or non-renewal of cosponsors and charter schools may be appealed to the State Board of Education.

Furthermore, there is a clear nexus between school districts and municipalities, universities, community colleges, and regional consortia when it comes to the provision of education. For example section 1012.98(5), F.S., provides that school districts may coordinate their professional development programs for teachers with an educational consortium, or with a community college or university. Section 1001.42, F.S., allows districts to participate in educational consortia that are designed to provide joint programs and services to cooperating school districts.

Additionally, section 1013.355, F.S., authorizes the creation of educational facilities benefit districts pursuant to an interlocal agreement between the district school board and a municipality or other eligible local government entity. Section 1002.35, F.S., directs that the New World School of the Arts is assigned to Miami-Dade Community College, the Dade County School District, and one or more universities designated by the State Board of Education.

These are just some of the examples that provide evidence of the relationship that districts share with municipalities, universities, community colleges, and regional consortia with regard to public

education throughout the state and should provide support for the proposition that further involvement by such entities would not create a conflict with Article 9 of the Constitution.

**B. RULE-MAKING AUTHORITY:**

The bill provides rulemaking authority to the State Board of Education.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The President of the Senate and the Speaker of the House may recommend, but may not determine or dictate who may be appointed to a board or commission that is empowered to act in more than just an advisory capacity. Consequently, the bill will need to be amended to require the recommendation of at least two or more nominees for each of the member positions that are appointed from the President's and the Speaker's recommendations.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

PCB CI 06-04

2006

1                   A bill to be entitled  
2       An act relating to charter schools; creating s. 1002.335,  
3       F.S.; providing findings and intent; establishing the  
4       Florida Schools of Excellence Commission as a charter  
5       school authorizing entity; providing for startup funds;  
6       providing for membership of the commission; providing  
7       powers and duties of the commission, including serving as  
8       a sponsor of charter schools, approving certain entities  
9       to act as cosponsors, approving or denying applications  
10      for Florida Schools of Excellence (FSE) charter schools,  
11      and developing standards for and evaluating the  
12      performance of charter schools; requiring collaboration  
13      with municipalities, state universities, community  
14      colleges, and regional educational consortia as cosponsors  
15      for FSE charter schools; providing requirements for  
16      approval of cosponsors by the commission; providing  
17      components of required cosponsor agreements; providing  
18      causes for revocation of approval of a cosponsor;  
19      providing for FSE charter school application and review  
20      procedures; authorizing existing charter schools to apply  
21      as FSE charter schools; providing for application of  
22      specified provisions of law; requiring access to  
23      information by parents; requiring the commission to submit  
24      an annual report; requiring rulemaking; amending s.  
25      1002.33, F.S.; providing requirements with respect to the  
26      right to appeal a charter school application denial;  
27      revising provisions relating to reporting of charter  
28      school student enrollment for purposes of funding;  
29      revising requirements relating to charter school

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facilities created to mitigate certain educational impact;  
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1002.335, Florida Statutes, is created  
to read:

1002.335 Florida Schools of Excellence Commission.--

(1) FINDINGS.--The Legislature finds that:

(a) Charter schools are a critical component in the state's  
efforts to provide efficient and high-quality schools within the  
state's uniform system of public education.

(b) Charter schools provide valuable educational options  
and innovative learning opportunities while expanding the  
capacity of the state's system of public education and empowering  
parents with the ability to make choices that best fit the  
individual needs of their children.

(c) The growth of charter schools in the state has  
contributed to enhanced student performance, greater efficiency,  
and the improvement of all public schools.

(d) The greatest challenges to the continued development  
and success of uniform high-quality charter schools are  
administrative issues, accountability issues, and a lack of  
sufficient communication and support from sponsors.

(2) INTENT.--It is the intent of the Legislature that:

(a) A new, independent state-level commission whose primary  
focus is the development and support of charter schools can  
better meet the growing and diverse needs of some of the  
increasing number and array of charter schools in the state and



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59 can further ensure that charter schools of the highest academic  
60 quality are approved and supported throughout the state in an  
61 efficient manner.

62 (b) New sources of community support in the form of  
63 municipalities with knowledge of the unique needs of a particular  
64 community or state universities, community colleges, or regional  
65 educational consortia with special education expertise should be  
66 authorized to participate in developing and supporting charter  
67 schools that maximize access to a wide variety of high-quality  
68 educational options for all students regardless of disability,  
69 race, or socioeconomic status.

70 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION.--

71 (a) The Florida Schools of Excellence Commission is  
72 established as an independent, state-level charter school  
73 authorizing entity working in collaboration with the Department  
74 of Education and under the supervision of the State Board of  
75 Education. Startup funds necessary to establish and operate the  
76 commission may be received through private contributions and  
77 federal and other institutional grants through the Grants and  
78 Donations Trust Fund and the Educational Aids Trust Fund housed  
79 within the department in addition to funds provided in the  
80 General Appropriations Act. The department shall assist in  
81 securing federal and other institutional grant funds to establish  
82 the commission.

83 (b) The commission shall be composed of two members  
84 appointed by the President of the Senate, two members appointed  
85 by the Speaker of the House of Representatives, and three members  
86 appointed by the Governor. The appointments shall be made as soon  
87 as feasible, but no later than September 1, 2006. Each member

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88 shall serve a term of 2 years; however, for the purpose of  
89 providing staggered terms, of the initial appointments, three  
90 members shall be appointed to 1-year terms and four members shall  
91 be appointed to 2-year terms. Thereafter, each appointee shall  
92 serve a 2-year term unless the State Board of Education, after  
93 review, extends the appointment. If a vacancy occurs on the  
94 commission, it shall be filled by the State Board of Education  
95 from a recommendation by the appropriate appointing authority  
96 according to the structure set forth in this paragraph. The  
97 members of the commission shall annually vote to appoint a chair  
98 and a vice-chair.

99 (c) The commission is encouraged to convene its first  
100 meeting no later than October 1, 2006, and, thereafter, shall  
101 meet each month at the call of the chair or upon the request of  
102 four members of the commission. Four members of the commission  
103 shall constitute a quorum.

104 (d) The commission shall appoint an executive director who  
105 shall employ such staff as is necessary to perform the  
106 administrative duties and responsibilities of the commission.

107 (e) The members of the commission shall not be compensated  
108 for their services on the commission, but may be reimbursed for  
109 per diem and travel expenses pursuant to s. 112.061.

110 (4) POWERS AND DUTIES.--

111 (a) The commission shall have the power to:

112 1. Authorize and act as a sponsor of charter schools,  
113 including the approval and denial of charter school applications  
114 pursuant to subsection (8) and the nonrenewal or termination of  
115 charter schools pursuant to s. 1002.33(8).

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116        2. Authorize municipalities, state universities, community  
 117 colleges, and regional educational consortia to act as cosponsors  
 118 of charter schools, including the approval and denial of  
 119 cosponsor applications pursuant to State Board of Education rule  
 120 and subsection (5) and the nonrenewal or termination of  
 121 cosponsors pursuant to State Board of Education rule and the  
 122 provisions of subsection (7).

123        3. Approve or deny Florida Schools of Excellence (FSE)  
 124 charter school applications and renew or terminate charters of  
 125 FSE charter schools.

126        (b) The commission shall have the following duties:

127        1. Review charter school applications and assist in the  
 128 establishment of Florida Schools of Excellence (FSE) charter  
 129 schools throughout the state. An FSE charter school shall exist  
 130 as a public school within the state as a component of the  
 131 delivery of public education within Florida's K-20 education  
 132 system.

133        2. Develop, promote, and disseminate best practices for  
 134 charter schools and charter school sponsors in order to ensure  
 135 that high-quality charter schools are developed and incentivized.  
 136 At a minimum, the standards shall encourage the development and  
 137 replication of academically and financially proven charter school  
 138 programs.

139        3. Develop, promote, and require high standards of  
 140 accountability for any school that applies and is granted a  
 141 charter under this section.

142        4. Monitor and annually review and evaluate the performance  
 143 of the charter schools it sponsors and hold the schools  
 144 accountable for their performance.

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145        5. Report the student enrollment in each of its sponsored  
146 charter schools to the district school board of the county in  
147 which the school is located.

148        6. Work with its cosponsors to monitor the financial  
149 management of each FSE charter school.

150        7. Direct charter schools and persons seeking to establish  
151 charter schools to sources of private funding and support.

152        8. Actively seek, with the assistance of the department,  
153 supplemental revenue from federal grant funds, institutional  
154 grant funds, and philanthropic organizations. The commission may,  
155 through the department's Grants and Donations Trust Fund, receive  
156 and expend gifts, grants, and donations of any kind from any  
157 public or private entity to carry out the purposes of this  
158 section.

159        9. Review and recommend to the Legislature any necessary  
160 revisions to statutory requirements regarding the qualification  
161 and approval of municipalities, state universities, community  
162 colleges, and regional educational consortia as cosponsors for  
163 FSE charter schools.

164        10. Review and recommend to the Legislature any necessary  
165 revisions to statutory requirements regarding the standards for  
166 accountability and criteria for nonrenewal or termination of  
167 cosponsors of FSE charter schools.

168        11. Assist its cosponsors and FSE charter schools in  
169 cooperating with district school boards to allow the charter  
170 schools to utilize unused space within district public schools.

171        12. Collaborate with municipalities, state universities,  
172 community colleges, and regional educational consortia as  
173 cosponsors for FSE charter schools for the purpose of providing

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the highest level of public education to low-income, low-performing, and underserved student populations.

a. Such collaborations shall allow state universities and community colleges that cosponsor FSE charter schools to enable students attending a charter school to take college courses and receive high school and college credit for such courses.

b. Such collaborations shall be used to determine the feasibility of opening charter schools for children with autism that work with and utilize the specialized expertise of the Centers for Autism and Related Disabilities established and operated pursuant to s. 1004.55.

13. Support municipalities when the mayor or chief executive, through resolution passed by the governing body of the municipality, expresses an intent to cosponsor and establish charter schools within the municipal boundaries.

14. Meet the needs of charter schools and school districts by uniformly administering high-quality charter schools, thereby removing administrative burdens from the school districts.

15. Work with school districts to assist them in effectively providing administrative services to their charter schools.

16. Perform all of the duties of sponsors set forth in s. 1002.33(5)(b) and (20).

(5) APPROVAL OF COSPONSORS.--

(a) The commission shall begin accepting applications by municipalities, state universities, community colleges, and regional educational consortia no later than January 31, 2007. The commission shall have 90 days from receipt of an application

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under this paragraph to approve or deny the application unless the 90-day period is waived by the applicant.

(b) The commission shall limit the number of charter schools that a cosponsor may approve pursuant to its review of the cosponsor's application under paragraph (c). Upon application by the cosponsor and review by the commission of the performance of a cosponsor's current charter schools, the commission may approve a cosponsor's application to raise the limit previously set by the commission.

(c) Any entity set forth in paragraph (a) that is interested in becoming a cosponsor pursuant to this section shall prepare and submit an application to the commission that provides evidence that:

1. The entity has the necessary staff and infrastructure or has set forth the necessary contractual or interagency relationships to show that it is able to handle all of the administrative responsibilities required of a charter school sponsor as set forth in s. 1002.33(20).

2. The entity has the necessary staff expertise and infrastructure or has set forth the necessary contractual or interagency relationships to ensure that it will approve and is able to develop and maintain charter schools of the highest academic quality.

3. The entity has and is committed to providing and pursuing the necessary public and private financial resources and staff to ensure that it can monitor and support charter schools that are economically efficient and fiscally sound.

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229        4. The entity is committed to providing equal access to all  
230 students and to maintaining a diverse student population within  
231 its charter schools.

232        5. The entity is committed to focusing on low-income, low-  
233 performing, and underserved student populations.

234        6. The entity has articulated annual goals and expected  
235 outcomes for its charter schools as well as the methods and plans  
236 by which it will achieve those goals and outcomes.

237        7. The entity has policies in place to protect its  
238 cosponsoring practices from conflicts of interest.

239        (d) The commission's decision to deny an application or to  
240 revoke approval of a cosponsor pursuant to subsection (7) is not  
241 subject to chapter 120 and may be appealed to the State Board of  
242 Education pursuant to s. 1002.33(6).

243        (6) COSPONSOR AGREEMENT.--

244        (a) Upon approval of a cosponsor, the commission and its  
245 cosponsor shall enter into an agreement that defines the  
246 cosponsor's rights and obligations and includes the following:

247        1. An explanation of the personnel, contractual and  
248 interagency relationships, and potential revenue sources  
249 referenced in the application as required in paragraph (5)(c).

250        2. Incorporation of the requirements of equal access for  
251 all students, including any plans necessary to provide  
252 transportation reasonably necessary to provide access to as many  
253 students as possible.

254        3. Incorporation of the requirement to focus on low-income,  
255 low-performing, and underserved student populations.

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256        4. An explanation of the goals and expected outcomes for  
257 the cosponsor's charter schools and the method and plans by which  
258 they will be achieved as referenced in the application.

259        5. The conflict of interest policies referenced in the  
260 application.

261        6. An explanation of the disposition of facilities and  
262 assets upon termination and dissolution of a charter school  
263 approved by the cosponsor.

264        7. A provision requiring the cosponsor to annually appear  
265 before the commission and provide a report as to the information  
266 provided pursuant to s. 1002.33(9)(1) for each of its charter  
267 schools.

268        8. A provision requiring that the cosponsor report the  
269 student enrollment in each of its sponsored charter schools to  
270 the district school board of the county in which the school is  
271 located.

272        9. A provision requiring that the cosponsor work with the  
273 commission to provide the necessary reports to the State Board of  
274 Education.

275        10. Any other reasonable terms deemed appropriate by the  
276 commission given the unique characteristics of the cosponsor.

277        (b) No cosponsor may receive applications for charter  
278 schools until a cosponsor agreement with the commission has been  
279 approved and signed by the commission and the appropriate  
280 individuals or governing bodies of the cosponsor.

281        (c) The cosponsor agreement shall be proposed and  
282 negotiated pursuant to the timeframes set forth in s.  
283 1002.33(6)(i).



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284        (d) The cosponsor agreement shall be attached to and shall  
285 govern all charter school contracts entered into by the  
286 cosponsor.

287        (7) CAUSES FOR REVOCATION OF APPROVAL OF A COSPONSOR.--If  
288 at any time the commission finds that a cosponsor is not in  
289 compliance, or is no longer willing to comply, with its contract  
290 with a charter school or with its cosponsor agreement with the  
291 commission, the commission shall provide notice and a hearing in  
292 accordance with State Board of Education rule. If after a hearing  
293 the commission confirms its initial finding, the commission shall  
294 revoke the cosponsor's approval. The commission may assume  
295 sponsorship over any charter schools sponsored by the cosponsor  
296 at the time of revocation. Thereafter, the commission may assume  
297 permanent sponsorship over such schools or may direct the  
298 school's governing body to apply to another cosponsor or to the  
299 appropriate district school board for sponsorship.

300        (8) CHARTER SCHOOL APPLICATION AND REVIEW.--Charter school  
301 applications submitted to the commission or to a cosponsor  
302 approved by the commission pursuant to subsection (5) shall be  
303 subject to the same requirements set forth in s. 1002.33(6). The  
304 commission or cosponsor shall receive and review all applications  
305 for FSE charter schools according to the provisions of s.  
306 1002.33(6)(b). All references to district school board in s.  
307 1002.33(6)(b) shall refer to the commission or its cosponsors  
308 that receive applications for review.

309        (9) APPLICATIONS OF EXISTING CHARTER SCHOOLS.--An  
310 application for an FSE charter school may be submitted by an  
311 existing charter school approved by a district school board. The  
312 approval of an application from an existing charter school shall

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313 not relieve the charter school of any preexisting contractual  
 314 obligations to the district school board sponsor that authorized  
 315 the charter school except to the extent such obligations are  
 316 waived by the district school board sponsor. A charter school  
 317 that switches sponsors pursuant to this subsection shall be  
 318 allowed to continue the use of all facilities, equipment, and  
 319 other assets it owned or leased prior to the dissolution of its  
 320 contract with a district school board sponsor.

321 (10) APPLICATION OF CHARTER SCHOOL STATUTE.--The provisions  
 322 of s. 1002.33(7)-(12), (14), and (16)-(19) shall apply to the  
 323 commission, cosponsors, and charter schools approved pursuant to  
 324 this section.

325 (11) ACCESS TO INFORMATION.--The commission shall provide  
 326 maximum access to information to all parents in the state. It  
 327 shall maintain information systems, including, but not limited  
 328 to, a user-friendly Internet website, that will provide  
 329 information and data necessary for parents to make informed  
 330 decisions. At a minimum, the commission must provide parents with  
 331 information on its accountability standards, links to schools of  
 332 excellence throughout the state, and public education programs  
 333 available in the state.

334 (12) ANNUAL REPORT.--Each year the chair of the commission  
 335 shall appear before the State Board of Education and submit a  
 336 report regarding the academic performance and fiscal  
 337 responsibility of all charter schools and cosponsors approved  
 338 under this section.

339 (13) IMPLEMENTATION.--The State Board of Education shall  
 340 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to  
 341 facilitate the implementation of this section.

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342           Section 2. Paragraphs (d), (e), (f), (g), and (h) of  
343 subsection (6) of section 1002.33, Florida Statutes, are  
344 redesignated as paragraphs (e), (f), (g), (h), and (i),  
345 respectively, and a new paragraph (d) is added to that  
346 subsection, and paragraph (a) of subsection (17) and paragraph  
347 (f) of subsection (18) of that section are amended, to read:

348           1002.33 Charter schools.--

349           (6) APPLICATION PROCESS AND REVIEW.--Beginning September 1,  
350 2003, applications are subject to the following requirements:

351           (d) The right to appeal an application denial under  
352 paragraph (c) shall be contingent on the applicant having  
353 submitted the same or a substantially similar application to the  
354 Florida Schools of Excellence Commission or one of its  
355 cosponsors. Any such applicant whose application is denied by the  
356 commission or one of its cosponsors subsequent to its denial by  
357 the district school board may exercise its right to appeal the  
358 district school board's denial under paragraph (c) within 30 days  
359 after receipt of the commission's or cosponsor's denial or  
360 failure to act on the application. However, the applicant  
361 forfeits its right to appeal under paragraph (c) if it fails to  
362 submit its application to the commission or one of its cosponsors  
363 by August 1 of the school year immediately following the district  
364 school board's denial of the application.

365           (17) FUNDING.--Students enrolled in a charter school,  
366 regardless of the sponsorship, shall be funded as if they are in  
367 a basic program or a special program, the same as students  
368 enrolled in other public schools in the school district. Funding  
369 for a charter lab school shall be as provided in s. 1002.32.

370           (a) Each charter school shall report its student enrollment

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to the sponsor ~~district school board~~ as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The sponsor ~~district school board~~ shall include each charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format.

(18) FACILITIES.--

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The sponsor ~~local school district~~ retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the sponsor ~~school district~~ subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the sponsor ~~school district~~. The district and the owner of the facility may contractually agree to another arrangement for the facilities if

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400 the facilities cease to be used for educational purposes. The  
401 owner of property planned or approved for new residential  
402 dwelling units and the entity levying educational impact fees  
403 shall enter into an agreement that designates the educational  
404 impact fees that will be allocated for the charter school student  
405 stations and that ensures the timely construction of the charter  
406 school student stations concurrent with the expected occupancy of  
407 the residential units. The application for use of educational  
408 impact fees shall include an approved charter school application.  
409 To assist the school district in forecasting student station  
410 needs, the entity levying the impact fees shall notify the  
411 affected district of any agreements it has approved for the  
412 purpose of mitigating student station impact from the new  
413 residential dwelling units.

414       Section 3. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01 (for drafter's use only)

Bill No. PCB 06-04

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Choice & Innovation Committee  
2 Representative(s)Legg offered the following:  
3

4 **Amendment**

5 Remove line(s) 83-86 and insert:  
6

7 (b) The commission shall be appointed by the State Board of  
8 Education and shall be composed of three appointees recommended  
9 by the Governor, two appointees recommended by the President of  
10 the Senate, and two appointees recommended by the Speaker of the  
11 House of Representatives. The Governor, President of the Senate  
12 and the Speaker of the House shall recommend a list of no less  
13 than two nominees for any appointment to the commission. The  
14 appointments shall be made as soon

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02 (for drafter's use only)

Bill No. PCB 06-04

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Choice & Innovation Committee  
2 Representative(s)Legg offered the following:  
3

4 **Amendment**

5 Remove line(s) 309-320 and insert:  
6

7 (9) APPLICATIONS OF EXISTING CHARTER SCHOOLS.—

8 (a) An application may be submitted pursuant to this  
9 section by an existing charter school approved by a district  
10 school board provided that the obligations of its charter  
11 contract with the district school board will expire prior to  
12 entering into a new charter contract with the commission or one  
13 of its cosponsors. A district school board may agree to rescind  
14 or waive the obligations of a current charter contract to allow  
15 an application to be submitted by an existing charter school  
16 pursuant to this section. A charter school that switches  
17 sponsors pursuant to this subsection shall be allowed to  
18 continue the use of all facilities, equipment, and other assets  
19 it owned or leased prior to the expiration or rescission of its  
20 contract with a district school board sponsor.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02 (for drafter's use only)

21 | (b) An application to the commission or one of its  
22 | cosponsors by a conversion charter school may only be submitted  
23 | upon consent of the district school board. In such instance,  
24 | the district school board may retain the facilities, equipment  
25 | and other assets of the conversion charter school for its own  
26 | use or agree to reasonable terms for their continued use by the  
27 | conversion charter school.  
28 |

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# **FLORIDA HOUSE OF REPRESENTATIVES**

## **COMMITTEE ON CHOICE & INNOVATION INTERIM PROJECT 2005-2006**



## **THE BENEFITS AND CHALLENGES FACING FLORIDA'S CHARTER SCHOOLS**

**Committee on Choice & Innovation  
209 HOB**

**January 2006**

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# **THE BENEFITS AND CHALLENGES FACING FLORIDA'S CHARTER SCHOOLS**

## **INTERIM PROJECT REPORT JANUARY 2006**

Prepared by  
The Staff of the House Committee on Choice and Innovation

### **Executive Summary**

The Florida Legislature authorized charter schools in 1996. Currently, for the 2005-2006 school year, 92,158 students attend the 333 charter schools in Florida. As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under Florida law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application. Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under 1002.32, F.S.

Across the nation, states differ in their administration, implementation, and oversight of charter schools. Charter school authorizers are those entities charged with overseeing individual charter schools. Alternative forms of charter school governance have received significant attention in the recent past due to the growing recognition that authorizers are vital components to the success of charter schools. Examples of alternative authorizers include independent special-purpose charter boards, intermediate or regional educational entities, and mayors.

Three of the identified challenges facing Florida's charter schools based on the February 2005 joint committee meeting with the Choice and Innovation Committee and PreK-12 Committee were related to financial difficulties, the administrative fee, and communication and support. Charter schools face considerable financial difficulties related to start-up and facilities related costs, inaccurate enrollment projections, lack of financial management practices, and lack of economies of scale. The administrative fee raises questions related to the type of services that the districts are providing to the charter schools, whether or not all districts are providing the statutorily required services, and whether the 5% administrative fee generates an adequate amount of money for school districts to fulfill their responsibilities to charter schools. Lastly, communication among charter schools, school districts, and the Department of Education is one of the biggest challenges facing the success of charter schools today.

Given Florida's commitment to providing parental choice and implementing innovative learning options it is important to address the challenges facing charter schools. The Charter School Review Panel's recommendations to the Legislature, to the Florida Department of Education, to charter schools, and to school districts for improving Florida's charter school policy are attached in Appendix A.

## **BACKGROUND**

### *Florida's Charter Schools*

“Charter Schools are designed to be an alternative form of public education, free from the traditional mandates historically imposed upon public schools. It is in fact this freedom that allows charter schools to be innovative and successful alternatives to traditional public education. By designing and operating programs tailored to educational demands of their consumers, students and parents, they are held to the highest level of accountability.”<sup>1</sup>

Charter schools empower parents, teachers, and communities. Parents are empowered to exercise parental choice by deciding the educational method that best fits their child's learning styles. Teachers are empowered to use innovative methods of teaching by engaging students in the classroom and by teaching to the specific needs of each child in that classroom. Communities are empowered to create better educational opportunities for students, parents, and teachers by designing schools to meet the needs reflective of the community. Additionally, charter schools drive competition among traditional public schools while giving parents the flexibility and freedom in choosing the appropriate public educational option for their child.

The Florida Legislature authorized charter schools in 1996. Since their introduction in 1996, the number of charter schools operating in Florida has grown from 5 to 333.<sup>2</sup> In 1996, the 5 schools served 574 students and in 2005-06 the 333 schools currently serve approximately 92,158 students.<sup>3</sup> The legislative principles guiding Florida charter schools are to meet high standards of student achievement while increasing parental choice within the public school system, align responsibility with accountability, and provide parents with sufficient information relating to their child's reading level and learning gains.<sup>4</sup>

As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under Florida law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.<sup>5</sup> Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under 1002.32, F.S.<sup>6</sup> The charter is an agreement signed by the

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<sup>1</sup> [www.alec.org](http://www.alec.org)

<sup>2</sup> [www.floridaschoolchoice.org](http://www.floridaschoolchoice.org)

<sup>3</sup> *Id.*

<sup>4</sup> FLA. STAT. ch. 1002.33(2)

<sup>5</sup> FLA. STAT. ch. 1002.33(5),(6)

<sup>6</sup> S. 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

governing body of the school and the sponsor that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Charter schools are often free from many state and local regulations and mandates, but are held accountable to the sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

### *Authorizers*

Across the nation, states differ in their administration, implementation, and oversight of charter schools. Currently, 40 states and the District of Columbia have enacted charter school laws with nearly all of the local school boards being involved in the authorization of charter applications.<sup>7</sup> According to the Education Commission of the States (ECS) Issue Brief: *A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, during the 2004-05 school year, there were over 800 charter school authorizers across the country, 700 of those being local school boards.<sup>8</sup> The remaining non-local school board authorizers included 44 regional educational entities; 37 universities and colleges; 22 state boards, commissioners and department of education; 17 nonprofit organizations; five independent special-purpose charter boards; and two mayors and city councils.<sup>9</sup>

ECS reports that a significant component in the state education policy environment for charter schools is determining which entities are best fit to be charter school authorizers.<sup>10</sup> Charter school authorizers are those entities charged with the responsibility to license, renew, and oversee individual charter schools.<sup>11</sup> The authorizer's functions include, but are not limited to, continuous monitoring of charter schools so that they are able to deal with issues that arise at an early stage, ensuring academic and financial accountability, offering technical assistance such as workshops or providing referrals, advocating to agencies on behalf of the charter school to reduce school burdens, and garnering community support.<sup>12</sup> According to ECS, it is believed that during the development of initial state charter school laws, the charter school authorizer's role was overlooked. Consequently, there is a growing recognition that effective authorizing is essential to the success of charter schools.

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<sup>7</sup> Hassel, Bryan, Todd Ziebarth and Lucy Steiner, *Education Commission of the States (ECS) Issue Brief: A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, Denver, Co: Education Commission of the States, September 2005, p.1.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Presentation by Mark Cannon, Executive Director of National Association of Charter School Authorizers (NASCA), to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation: *Authorizer Role in Increasing the Number of Quality Charter Schools*.

<sup>12</sup> *Id.*

Alternative forms of charter school governance have received significant attention in the recent past due to the growing recognition that authorizers are vital components to the success of charter schools. According to ECS, states are interested in utilizing entities other than local school boards to authorize charter schools because local school districts are too constrained with managing, addressing, and correcting the problems of the existing public schools within their district. Local school district resources and personnel are limited; therefore, charter schools are not always receiving the oversight and assistance that is needed to operate a successful charter school. Also, some states believe that giving charter school applicants an option between choosing a local school district or an alternative authorizer is very important in districts that are hostile towards charter schools. In this case, not only does this option provide charter school applicants with the possibility of authorization in a hostile school district but also the presence of an alternative authorizer may cause the hostile school district to implement state charter school laws in a more practical manner.<sup>13</sup>

### **CHALLENGES FACING FLORIDA CHARTER SCHOOLS**

The Choice & Innovation Committee, jointly with the PreK-12 Committee, held a charter school workshop in February 2005. Charter schools, school districts, and other groups raised concerns and presented information to the committee on a wide variety of issues related to charter schools. Additionally, the Committee Chairmen requested that the Florida Association of District School Superintendents conduct a survey on charter schools. Of the 67 school districts, 33 districts responded with comments from the district superintendent, charter schools, or both. 20 districts failed to return the survey, 13 districts do not have charter schools within their district, and 1 district reported that the district school board voted to give notice of intent to not renew a charter contract. Based on the presentations and materials provided to the committee, the following are identified challenges facing Florida's charter schools:

#### *Financial Difficulties*

The number of charter schools with a financial deficit<sup>14</sup> increased from 18% in 1999-00 to 29% in 2002-03.<sup>15</sup> New charter schools, schools that have been in existence for 1-2 years, have the highest deficit rate among charter schools at approximately 38%, whereas charter schools that have been in existence for 3-4 years and 5-7 years have a

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<sup>13</sup> ECS at 2.

<sup>14</sup> As determined in the Auditor General's Report Number 2005-054, charter schools operating with an end-of-year financial deficit are those charter schools that ended the year with a deficit of unreserved balance in their general fund (for statements using the governmental model) or deficit unrestricted net assets in their unrestricted fund (for statements using the not-for-profit model); Office of Program Policy Analysis and Government Accountability (OPPAGA) Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 8.

<sup>15</sup> Presentation by Jane Fletcher, Staff Director, Education, of OPPAGA, to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation:  
*Charter School Review*.

deficit rate of 20% and 21%, respectively.<sup>16</sup> Moreover, new charter schools operated by Educational Management Organizations (EMO) have even higher deficit rates at approximately 70%, whereas charter schools that have been in existence for 3-4 years and 5-7 years have a deficit rate of 50% and 29%, respectively.<sup>17</sup>

Charter schools face considerable challenges related to start-up and facilities related costs that put charter schools at risk for chronic financial deficits. More specifically, new charter schools may underestimate the high start-up and facilities related costs associated with opening a charter school and are unable to obtain sufficient funds to cover these costs associated with opening.<sup>18</sup> According to the OPPAGA report, some charter schools often have to use Florida Education Finance Program funds to pay for or to supplement other funds for facilities- related costs because it is difficult to find adequate, affordable existing facilities.<sup>19</sup>

Charter schools also face challenges with their budget because charter school funding is largely based on enrollment and new charter schools often fail to accurately project student enrollment. Therefore, charter schools that underestimate enrollment must continue to serve all enrolled students without receiving additional funding until the next enrollment count while charter schools that overestimate enrollment must return the funding to the state even if the funds have already been spent.<sup>20</sup> Similarly, charter schools with small student bodies may have difficulty in building reserve and contingency funds. Thus, unexpected expenses may create a greater risk of financial difficulty for smaller charter schools.<sup>21</sup>

Lack of expertise in education budgeting and finance and with government accounting conventions are additional challenges facing charter schools. Identifying and assisting charter schools with deteriorating financial conditions is challenging without complete, accurate, and timely financial data.<sup>22</sup> According to the OPPAGA report, it is important for the Department of Education (DOE) to take a more proactive approach with charter schools in their first years of operation and to have more effective methods to identify and assist charter schools either at risk of financial difficulty or in need of assistance to overcome financial deficit.<sup>23</sup> Furthermore, in the November 1, 2004-

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 7.

<sup>19</sup> Postal, Leslie, *Changes in Budget Might Help Schools*, Orlando Sentinel, December 24, 2005, at [www.orlandosentinel.com](http://www.orlandosentinel.com). For each of the past four fiscal years, the Legislature has appropriated \$27.7 million for charter school facility maintenance, repair, renovation, and remodeling from the Public Education Capital Outlay and Debt Service Trust Fund. However, this year, the State Board of Education recommended an increased budget of more than \$53 million for charter-school construction.

<sup>20</sup> OPPAGA Report No. 05-11 at 9-10.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 1.

<sup>23</sup> *Id.* at 11. OPPAGA recommended clarifying the Department of Education's role to include the following responsibilities: ensuring that technical assistance is available to charter schools for developing business plans and estimating costs and income is available; ensuring that training and technical assistance is provided for administrators in planning, budget, management, and financial reporting; developing a



October 31, 2005 Florida Auditor General Annual Report,<sup>24</sup> the Auditor General determined that the laws governing charter schools do not contain comparable reporting requirements for charter schools operating with deteriorating financial conditions.<sup>25</sup> Therefore, the Auditor General recommended that, at a minimum, the auditor notify the governing board of the charter school of the deficit financial position and that those charter schools should be required to file a detailed financial recovery plan with the sponsoring district school board.<sup>26</sup>

### *Administrative Fees*

Under Florida law, a school district sponsor is required to provide the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.<sup>27</sup> Administrative fees for the above services that may be charged by the district to a charter school are 5% of the available per student Florida Education Finance Program (FEFP) funds. For charter schools with enrollment up to and including 500 students there is a 5% cap on the administrative fees that the district may charge. However, for any charter school with enrollment exceeding 501 students the school district calculates the 5% for those students over 500, but retains the calculated amount to be used only for capital outlay purposes.<sup>28</sup>

The administrative fee raises questions related to the type of services that the districts are providing to the charter schools, whether or not all districts are providing the statutorily required services, and whether the 5% administrative fee generates an adequate amount of money for school districts to fulfill their responsibilities to charter schools. For instance, in some school districts it is clear what services are being provided to the charter schools with the 5% fee, yet, in other districts, it is unclear as to what services the district is providing to the charter school. Two districts even reported that the DOE was unable to determine what the administrative fee includes.<sup>29</sup> Similarly, some districts reported that because of the 5% cap on the administrative fee the district absorbs

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monitoring system that includes a comprehensive list of financial indicators to be used for the early identification of charter schools at greatest risk for financial difficulty; ensuring that training and technical assistance is provided to charter schools in deteriorating financial conditions; annually reporting schools identified as being at risk for financial difficulties and the actions that have been taken to assist the school; and developing a modified annual financial report for charter schools with additional guidelines for expenditure reporting.

<sup>24</sup> The Auditor General Annual Report Numbers 2005-054 and 2006-034, *Report on Significant Findings and Financial Trends in Charter Schools and Charter Technical Career Center Audit Reports Prepared by Independent CPAs*, November 2004 – October 2005.

<sup>25</sup> FLA. STAT. ch. 219.39(5), requires the auditor of a local governmental entity or district school board to notify each member of the governing board for which deteriorating financial conditions exist that may result in a state of financial emergency as defined by Section 218.503, Florida Statutes.

<sup>26</sup> The Auditor General Annual Report Numbers 2005-054 and 2006-034; OPPAGA at 12.

<sup>27</sup> FLA. STAT. ch. 1002.33(20)

<sup>28</sup> *Id.*

<sup>29</sup> Bradford County, Brevard County, Lee County

the cost for providing direct and indirect administrative and educational services to students in charter schools where the student enrollment exceeds 500 students.<sup>30</sup>

School districts reported that the increased emphasis at the state level for charter school accountability has translated into additional responsibilities for the school districts and their staff. Moreover, one school district responded that “the tremendous amount of time, money, and human resources needed to provide on-going technical assistance and compliance monitoring is having a direct impact on the district’s organizational capacity depending on the number of charters within a district.”<sup>31</sup> Furthermore, with the growth of charter schools and the increasing accountability and documentation requirements, the actual cost for supervising and monitoring charter schools is increasing.<sup>32</sup>

### *Communication and Support*

Communication among charter schools, school districts, and the DOE is one of the biggest challenges facing the success of charter schools today. Charter schools and school districts share this feeling of discontent. Both charter schools and districts see and understand that the lack of communication is a barrier to the success of the charter school and a barrier to the success of the school district in the oversight of the charter school. The Alachua County Superintendent stated that “there is an increasing and on-going adversarial relationship that makes for an uneven playing field instead of the cooperative venture that was intended.”<sup>33</sup>

Charter schools suggested that districts keep charter schools informed of professional development programs and new state and local policies and decisions affecting charter schools. Charter schools expressed concern that the districts do not disseminate important information from the state and district in a timely manner. Similarly, school districts suggested that the DOE present more opportunities for district staff to participate in workshops to exchange best practices and receive updates and guidance from the DOE. Also, districts requested that they be included in the communications and information passing directly from the DOE to the charter schools and from the charter schools to the DOE. School districts suggested, and charter schools agreed, that charter schools need more professional development and mentoring for charter school principals and directors of charter schools, such as inviting charter school principals to appropriate administrative and professional in-service activities in their districts.

## **FLORIDA’S CHARTER SCHOOL SUCCESSESS**

At the crux of each charter school is a shared vision and mission. This mission guides the creation, development, and continuous improvement of the charter school.

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<sup>30</sup> Brevard County, Broward County

<sup>31</sup> Alachua County

<sup>32</sup> Sarasota County

<sup>33</sup> Alachua County response to charter school survey conducted by the Florida Association of District School Superintendents.

Persons associated with the school, the principals, guidance counselors, teachers, staff, parents, and students know what the mission stands for and believe in its vision. Regardless of what the charter school's mission is, the key to being an effective charter school is to stay mission-driven.<sup>34</sup> Florida is one of the leading states in the nation with its array of charter school options. Two examples of successful charter schools in Florida are the Life Skills Center and the School of Arts and Sciences.

The mission of the nine Life Skills Centers in Florida is to serve at-risk and dropout youth ranging in age from 16 to 21. Students at Life Skills Centers work at their own level and pace on their electronic Personal Success Plan, available 24/7 on their web-based Learning Management System, in four hour sessions in a classroom with three full-time teachers and two full time assistants. The Life Skills Centers boast collaboration between teacher, student, and parent, and also have a full-licensed Family Advocate on staff to assist in contacting and coordinating individual, group, and family counseling and services. More than 6,200 students have graduated from Life Skills Center with a state-recognized high school diploma and a job. The Life Skills Center is committed to educating at-risk and dropout youth in a manner that is consistent with community, state, and federal standards.

The mission of Academy of Arts and Sciences in Tallahassee, Florida, is "to facilitate individual educational ownership and responsible lifelong learners through interdisciplinary approaches to arts and sciences in a safe and nurturing environment."<sup>35</sup> Here, curriculum and instruction are responsive to the developmental approach to learning and feature thematic, interdisciplinary instruction, project-based learning, and portfolios in place of grades.<sup>36</sup> There are three multi-aged classrooms and each student stays with the same teacher for a three-year period which emphasizes their commitment to a secure learning environment. Students do not receive grades; however, they do participate in the Florida Comprehensive Assessment Test. As a commitment to their mission, on a yearly basis the school analyzes students' progress and uses their findings to develop an improvement plan and to set annual goals, which are published in their annual accountability report.<sup>37</sup>

## **ALTERNATIVE AUTHORIZERS**

### *Independent Special-Purpose Charter Board*

Currently, Arizona, Colorado, the District of Columbia, Idaho, and Utah allow independent special-purpose charter boards to authorize charter schools.<sup>38</sup> In all of the jurisdictions, except for Colorado, charter applicants in any part of the jurisdiction may apply to the independent board for approval. However, because of the provision in the

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<sup>34</sup> United States Department of Education Office of Innovation and Improvement, *Innovations in Successful Charter Schools*, Washington, D.C., 2004.

<sup>35</sup> *Id.* at 51.

<sup>36</sup> *Id.* at 7.

<sup>37</sup> *Id.* at 51.

<sup>38</sup> ECS at 3.

Colorado state constitution granting local school district boards control over public education, individual local school boards have the opportunity to apply to the state board to retain “exclusive jurisdiction” to issue charters.<sup>39</sup> If the state board determines that the district has provided equitable treatment to charter schools for four years prior to the district’s request then the school district retains such authority and no other authority may issue a charter to a charter school applicant.<sup>40</sup> There are several interrelated potential advantages and disadvantages of the independent special-purpose charter board.

The most significant advantage of the independent special-purpose board is that the core mission of the board is to authorize charters.<sup>41</sup> Unlike other authorizers, this independent special-purpose board does not assume or have any other additional responsibilities aside from the authorization of charter schools. Therefore, it is unlikely that there would be tension or conflict between the charter applicant and the independent special-purpose board because the board, unlike a school district, would not perceive itself as a competitor for charter school students.<sup>42</sup>

An independent special-purpose board has the freedom to initially develop and construct their authorizing system unlike school districts that have to fit charter schools into their existing set of processes and systems.<sup>43</sup> More specifically, at the outset, the independent special-purpose board can determine its application forms and processes and its oversight and accountability systems. This potential advantage also raises a potential disadvantage to the independent special-purpose board. The task of constructing an authorization system requires sufficient resources to carry out their responsibilities. At the outset, it is possible that independent special-purpose boards will not be provided with essential resources such as sufficient personnel or funding from a larger institution and will be required to start from scratch by themselves.<sup>44</sup>

An independent special-purpose board has the opportunity to bring a fresh perspective to public school education and they have the ability to cultivate schools, through the application process, that respond to the needs of the community.<sup>45</sup> However, unlike local school districts that are familiar with the district challenges, students’ needs, and communities’ desires, independent special-purpose boards may not be as intimately familiar with the community.<sup>46</sup> Consequently, independent special-purpose boards may not be able to critically review the adequacy of proposed charters and may not be able to ensure those schools succeed in meeting the needs of the community. Therefore, it is critical that independent special-purpose boards begin working with individual communities at the outset to meet the needs reflective of each individual community.

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<sup>39</sup> Article IX, Section 15 of the Colorado constitution vests the directors of local boards of education with “control of instruction in the public schools of their respective districts.”

<sup>40</sup> ECS at 14.

<sup>41</sup> *Id.* at 3.

<sup>42</sup> OPPAGA Report Number 99-48: *Program Review: Charter Schools Need Improved Academic Accountability and Financial Management*, April 2000, p 24-25.

<sup>43</sup> ECS at 3.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> OPPAGA Report No. 99-48 at 24-25.

The most significant disadvantage to the independent special-purpose board is that of accountability. The independent special-purpose board is generally not accountable to local voters for their decisions to approve or deny charter applications.<sup>47</sup> While state law can require that the board of an independent special-purpose board be comprised of members with certain areas of expertise, these members are traditionally appointed by elected officials. Therefore, unlike elected local school board members, members of an independent special-purpose board appointed are generally not directly accountable to the voting public. In turn, local voters may feel as if they have little or no control over the charter schools in their communities in the same manner that they feel they have control of the public schools.

### *Intermediate or Regional Educational Entities*

Michigan, Minnesota, and Ohio permit intermediate or regional educational agencies that span multiple school districts to authorize charters. The most significant advantage relating to intermediate or regional educational entities is that they may be more capable than local school boards at looking at the provision of public education on a broad scale. Thus, intermediate or regional educational agencies may be able to identify where and what types of educational needs are not being met by the local school district and will be able to authorize schools based on those identified needs.<sup>48</sup> However, like local school boards, intermediate or regional educational entities have great access to a wide array of resources and have direct experience in managing schools. Potentially, schools authorized by these entities may be able to offer assistance with financial and human resources operation, extracurricular programs, after-school programs, special education, and transportation.<sup>49</sup>

Another potential advantage to intermediate or regional educational entities is that it is possible that these entities are more insulated from politics than local school boards. This may prove helpful in making decisions and allow for more child-centered decisions related to authorization and accountability. On the other hand, this insulation from politics may be a potential disadvantage because of a lack of direct accountability. Unlike local school boards, intermediate or regional educational entities that do a poor job of authorizing are less susceptible to public scrutiny and are less likely to be held directly accountable by the public.<sup>50</sup>

### *Mayors*

In 2001, Indiana became the first and only state to designate the mayor of Indianapolis as a charter authorizer within its city boundaries. In 2001, the Indiana Legislature enacted the state's charter school law that gave the mayor the power to

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<sup>47</sup> ECS at 3; OPPAGA Report No. 99-48 at 24-25.

<sup>48</sup> ECS at 12.

<sup>49</sup> *Id.*

<sup>50</sup> ECS at 13.

authorize charter schools with the ramification of the city's legislative body.<sup>51</sup> Indiana state law restricts the number of new charter schools that the mayor can authorize each year to five.<sup>52</sup> There are several potential advantages and disadvantages to consider when granting the mayor of a city the authority to authorize charter schools.

The most significant advantage to utilizing the mayor of a city as a charter school authorizer is that the mayor is an elected official who is held directly accountable to the citizens for the performance of the city government and the health of the city.<sup>53</sup> Given that the city's health is dependent on good, quality public education the mayor is inclined to make sound decisions as a charter authorizer. Also, there is a strong potential that the mayor's involvement with charter schools may garner advocacy and support from the rest of the community. Similarly, mayors have local knowledge and may be able to best determine which communities are most in need of stronger school options. The mayor's involvement, authorization, and oversight of charter schools could potentially influence the credibility of the charter school movement which attracts students, funding, and community support.<sup>54</sup>

City governments have infinite access to resources for charter school use. For example, the mayor's charter school office in Indianapolis created a facilities financing program within the city's bond bank and encouraged collaboration among charter schools, the city's park department, and the public library system. ECS identified the following as possibilities for mobilizing the city's resources: making surplus city buildings available to charter schools, co-location of city services with charter schools, linking charter schools with youth development programs and providing low-cost housing for charter school teachers. Another potential advantage is that a mayor may have the ability to attract talented, well-qualified people to serve on charter school boards, to encourage established community organizations to apply to open a charter school or to work with existing charter schools, and to assist charter schools in the successful creation of a charter school.<sup>55</sup>

These potential advantages raise three potential disadvantages to utilizing mayors as charter authorizers. First, the authorizing of charter schools will be just one of the many responsibilities of the mayor. Mayors are responsible for all aspects of city government and will have a multitude of other pressing issues to deal with on a daily basis. Second, not all mayors will have expertise in education or in the authorization and oversight of charter schools. Thus, the design and implementation of a system of authorization and oversight may prove to be a challenging task. Third, because the mayor is an elected official there is an inherent lack of stability due to the mayor's political vulnerability. The mayor serves a limited term and the mayor's staff members are usually hired only for those particular terms. While the incumbent mayor may be a

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<sup>51</sup> ECS at 8.

<sup>52</sup> <http://www.indygov.org/eGov/Mayor/Education/Charter/faq.htm>

<sup>53</sup> ECS at 8.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

charter school supporter and may work to advance the charter school initiative, there is a possibility that a new mayor will not support the charter school movement.<sup>56</sup>

### *Universities and Colleges*

Nine states, including Florida, currently allow universities and colleges to authorize charter schools. Indiana, Michigan, Minnesota, New York, North Carolina, and Ohio allow colleges and universities to authorize charter schools throughout the state while Florida, Missouri, and Wisconsin grant such authority in limited circumstances.<sup>57</sup> In Florida, the mission of the developmental research (laboratory) schools is to be “the provision of a vehicle for the conduct of research, demonstration, and evaluation regarding management, teaching, and learning” and the goal is to “enhance instruction and research in specialized subjects by using the resources available on a state university campus, while also providing an education in nonspecialized subjects.”<sup>58</sup> Although Florida currently utilizes universities as charter school sponsors in a limited manner, it is important to discuss the potential advantages and disadvantages of state universities and colleges as charter school authorizers.

The authorization of charter schools has proven to be a huge financial and administrative commitment. Universities and colleges already have enormous responsibilities and tacking on the authorization of charter schools will require these entities to ensure that they have adequate staff, finances, and services available to meet the demand of charter school authorization. Consequently, universities and colleges may find it necessary to duplicate a structure similar to a district school board for the operation, control, and supervision of charter schools.<sup>59</sup>

A potential advantage of utilizing universities and colleges is that they may view their authorizer’s role as a way to strengthen and further their commitment to improving the state’s public education system.<sup>60</sup> For example, universities and colleges have a vested interest in postsecondary education; therefore, these entities may choose to sponsor a charter school whose mission is to innovatively bridge the gap between high school to college.<sup>61</sup> Also, the general public may view charter schools authorized by these entities as more legitimate than other charter schools authorized by lesser know entities because of the respected reputation of these institutions within the state. However, district public schools may not directly benefit from successful charter school practices because universities and colleges are not authorized to set policy for public schools.<sup>62</sup>

Furthermore, universities and colleges have their own established education departments and programs specifically designed for preparing students to become

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<sup>56</sup> ECS at 9.

<sup>57</sup> *Id.* at 5.

<sup>58</sup> FLA. STAT. ch. 1002.32(3)

<sup>59</sup> OPPAGA Report No. 99-48 at 23.

<sup>60</sup> ECS at 5.

<sup>61</sup> *Id.*

<sup>62</sup> OPPAGA Report No. 99-48 at 23.

teachers and administrators in the K-12 education system. Thus, these entities could potentially expand their own programs to include charter school authorization within their administration and professional development programs.<sup>63</sup> However, this raises a significant potential disadvantage for universities and colleges as charter school authorizers. These entities may be unwilling to authorize charter schools that are independent of the existing K-12 education system because of their close connection with that existing system. More specifically, universities and colleges have reported that they have suffered political backlash from districts such as not being able to place their student teachers in the district's classrooms.<sup>64</sup> The potential conflict that could ensue between these entities may deter universities and colleges from becoming charter school authorizers.

### **CHARTER SCHOOL REVIEW PANEL**

On January 9-10, 2006, the Charter School Review Panel (Panel) convened in Tallahassee, Florida to review issues, practices, and policies regarding charter schools. The Panel met again on February 7, 2006, in Pembroke Pines, Florida. The Panel reviewed the following issues in advance of the 2006 Legislative Session:

- Quality and Accountability for charter schools: Develop advice on addressing low performing charter schools.
- Facilities funding: Identify models for the distribution of capital outlay.
- Class Size Reduction: Develop a statement as to the impact of class size reduction on public charter schools and discuss strategies to address class size reduction.
- Concerns regarding contracting with districts: Identify solutions to contracting challenges, including combining the contract with the application and requiring uniform contracts.

The Charter School Review Panel's recommendations to the Legislature, to the Florida Department of Education, to charter schools, and to school districts for improving Florida's charter school policy are attached in Appendix A.

### **CONCLUSION**

The growth and success of Florida's charter schools have played a fundamental role in increasing parental choice in public education. With 333 charter schools serving approximately 92,000 students, Florida is third in the nation in the number of charter schools that provide innovative learning opportunities for students. Moreover, Florida is one of the leading states in the nation with its array of charter school options that cover the spectrum of educational needs. Given Florida's commitment to providing parental choice and implementing innovative learning options it is important to address the challenges facing charter schools.

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<sup>63</sup> ECS at 5.

<sup>64</sup> *Id.*





## **APPENDIX A**

## APPENDIX A

### **Recommendations of the Florida Charter School Review Panel January 2006**

Fernando Zulueta – Chair, Governor’s Appointee  
Rhonda Calhoun, Governor’s Appointee  
Vickie Marble, Governor’s Appointee  
DeVarn Flowers, Senate President’s Appointee  
Stephen Langford, Senate President’s Appointee  
Tim Kitts, House Speaker’s Appointee  
Debo Powers, House Speaker’s Appointee  
Jill White, Commissioner’s Appointee  
Carlo Rodriguez, Commissioner’s Appointee

### **Introduction**

In only eight years, Florida has established more than 330 charter schools serving almost 100,000 students. Collectively, charters offer almost as many schools as the State’s largest school district and serve as many students as the state’s 7<sup>th</sup> largest district. Research has shown that competition from public charter schools is a highly effective way to promote greater student achievement at all public schools.<sup>65</sup> That appears evident in Florida, where growing charter school competition has accompanied a rising tide of reading achievement for all public school students statewide.

A demanding consumer is an essential market force for improving the competitive quality of any industry.<sup>66</sup> The competitive market force of informed parental choice can drive public schools to improve. Charter schools can provide parents with meaningful educational choices, and Florida’s A+ plan is educating parents to become savvy education consumers by providing them with academic performance information on public school options available to them. As education consumers armed with information and meaningful educational choices, parents become powerful agents of change for improving public education.

During the past five years, while growing rapidly in total numbers, the percentage of students testing proficient (FCAT level 3+) in reading at Florida’s charter schools has grown at a faster pace than the percentage of students testing proficient in reading at the state’s non-charter public schools. Two years ago, for example, 55% of Florida’s charter school students tested proficient on the FCAT reading test compared to 54% of students at the state’s non-charter public schools. Last year, 58% of Florida’s charter school students tested proficient on the FCAT reading test compared to 56% of students at the state’s non-charter public schools.

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<sup>65</sup> Caroline M. Hoxby, *School Choice and School Productivity (or Could School Choice be a Tide that Lifts All Boats?)*, National Bureau of Economic Research, April 2002.

<sup>66</sup> Michael E. Porter, *Competitive Strategy: Techniques for Analyzing Industries and Competitors*, New York, The Free Press, 1980.

The Florida Charter School Review Panel (the “Panel”) has found that Florida’s charter school programs vary in achievement results and accountability measures from district to district across the state. Some districts have established flourishing and innovative charter school programs with high student achievement; other districts have established lackluster programs with mixed achievement results. The Panel believes that this variability could be attributable to Florida’s district-by-district charter school sponsorship framework.<sup>67</sup> The establishment of a statewide charter school accountability authority to promote high levels of quality and transparency in charter school authorizing, sponsoring, and oversight could help remedy this.

This document was adopted by the Panel during public meetings it held in Tallahassee, Florida on January 9<sup>th</sup> and 10<sup>th</sup> and in Fort Lauderdale, Florida on February 7<sup>th</sup>, 2006. The Panel heard presentations and public comments on four general topic areas affecting charter schools in Florida: 1) Quality and Accountability, 2) Contract Relationships with School Districts, 3) Class Size Reduction, and 4) Facilities Funding.

At the conclusion of the public comments and invited presentations, the Panel deliberated and made the initial draft recommendations contained here to the Florida Legislature and to the Department of Education. The Panel welcomes public comment on the proposed recommendations. Public comment can be made via the Florida Department of Education website:

[http://www.floridaschoolchoice.org/Information/Charter\\_Schools/Review\\_Panel.asp](http://www.floridaschoolchoice.org/Information/Charter_Schools/Review_Panel.asp) .

## **Panel Recommendations**

### *Enhancing Charter School Quality and Accountability*

The Panel reviewed FCAT reading academic achievement data for charter and non-charter students during the past five years. Data was presented: 1) on a statewide basis, 2) by district for several of the state’s largest school districts, and 3) disaggregated by diversity factors. While growing rapidly in total numbers, the percentage of students testing proficient in reading at Florida’s charter schools has grown rapidly during the past five years. Consistent with the findings of several national studies, the percentage of African American and Hispanic students testing proficient in reading in the state’s charter schools has also increased steadily during the past five years.

Despite steady overall achievement gains, the Panel finds that Florida’s charter school programs vary in achievement results and accountability measures from district to district across the state. Some school districts have established flourishing charter school programs that are providing parents with numerous innovative and meaningful education choices for their children and delivering high student achievement. Other districts have established lackluster programs with mixed achievement results. It appears evident that

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<sup>67</sup> January 9<sup>th</sup> and 10<sup>th</sup> presentations to the Charter School Review Panel by Fernando Zulueta and David Calvo compiled from data provided by the Department of Education K-20 Data Warehouse.

the quality of a charter school sponsor's program can impact greatly the relative success of the charter schools it sponsors.

To promote consistency and quality in charter programs statewide, the majority of states with charter schools provide for multiple charter school sponsors. Florida lacks this mechanism, and has relied on a binding appeals process to the State Board of Education to address disputes and provide consistency in some sponsorship practices. Florida's appeal process has allowed the State Board of Education to exercise its supervisory authority in disputes that arise between districts and charter schools. Though essential for due process, exclusive reliance on a dispute resolution mechanism may not be sufficient to promote consistency and quality in charter programs statewide.

The Panel recommends the creation of an Accountability Authority to promote high levels of quality and transparency in charter school authorizing, sponsoring, and oversight statewide. The Accountability Authority could serve as an additional sponsor for charter schools across the state while partnering with local municipalities and colleges and universities to ensure local control and oversight. The availability of an additional sponsor such as this could also help reduce the number and frequency of appeals occurring under Florida's current single-sponsor framework.

#### *Identifying solutions to contracting challenges*

To assist the Charter School Appeals Commission and the State Board of Education in their review of appeals, the Panel recommends that the Department of Education promulgate a uniform statewide model charter school contract for the state's authorizers to use. This model contract should embody many of the best practices for chartering available in the state. In the event of an appeal based on a contract that deviates from the model, consideration could be given to that by the appellate body. The Panel has begun work on a proposed model contract to provide to the Department.

To assist districts and charter school applicants and operators in reducing disputes, the Panel recommends that the Department of Education consider designating individuals in different parts of the state as non-binding mediators or facilitators for contractual matters and disputes that arise between school districts and charter schools. This could be funded and facilitated through the Charter School Resource Center or the State Charter School Consortium.

#### *Addressing Class Size Reduction*

The Panel believes that Florida's class size reduction mandate is inconsistent with the ideals of the charter school movement. Charter schools are founded on fundamental free market principals of vigorous competition and innovation driven by parental choice and tempered by rigorous public accountability, transparency, and oversight.

In the context of meaningful parental school choice, class size becomes just one of many factors that parents weigh in choosing the best school for their child from among

numerous competing alternatives. A statewide class size limitation loses relevance when applied to public schools where students are not assigned but that parents freely choose.

Florida's charter schools are typically smaller than average learning communities that encounter huge challenges in delivering robust educational infrastructure due to their small size. Recognition should be given to the fact that these programs that parents specifically choose for their children are already, by and large, small.

The best research reveals that class size reduction is one of the least cost effective models of education reform available for improving student achievement.<sup>68</sup> Research shows, instead, that vigorous competition is one of the most cost effective methods for raising student achievement in public schools.

Florida's data shows that the average class size has grown at the state's charter schools during the same time it shrank at the traditional public schools. Significantly, however, reading achievement data shows the opposite trend: during the past five years, the percentage of students testing proficient in reading at the state's charter schools has increased at a faster pace than at the traditional public schools.

If the class size amendment is not reversed by the state's voters, the Panel believes that implementing legislation should allow charter schools operational flexibility and freedom in designing programs that comply with the class size mandate. To that end, the Panel recommends that average class size at charter schools should be calculated on a school-wide basis in implementing the class size amendment to allow schools the flexibility to innovate.

Charter schools should be allowed to meet a school-level average class size requirement with maximum flexibility. This should include allowing for programs that include distance or cyber learning.

Further, unlike with the traditional public schools, the State has only been funding charter schools for the operating portion and not the facilities' portion of the class size reduction amendment. Accordingly, it would be contrary to law to require charters to comply at a classroom level if the increased facilities costs required for compliance are not funded.

#### *Reforming Facilities Funding to Promote Greater Accountability and Quality*

The Panel supports a charter school funding system that provides equal access to all charter schools and that is based on the equitable principle that "the money should follow the child." A recent report by the Fordham Institute found that funding at Florida's charter schools is almost \$900 less per year per student statewide and \$1,400 to \$1,500

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<sup>68</sup> Laurence Mishel & Richard Rothstein, eds., *The Class Size Debate*, Economic Policy Institute, Washington, D.C. 2002.

less per year per student in the large urban school districts than the per student funding at the non-charter public schools.<sup>69</sup>

The Panel fully supports the Chairman of the State Board of Education and the Commissioner of Education in their belief that charter schools should be provided access to facilities funding on a basis that clearly aligns access with accountability and performance. The Panel fully supports the Commissioner of Education and the State Board of Education in the recommendation to increase charter school facilities funding this year.

The Panel supports the identification and establishment of a fully dedicated funding source that would provide funding for school facilities and infrastructure with some level of certainty. The Panel recommends realigning incentives so that schools are required to meet objective measures of student achievement and fiscal accountability to access the charter school facilities funding program. The Panel wishes to ensure that highly effective, high performing schools are not excluded from facilities funding. It should be noted that the federal charter school program grant is not available for facilities funding once a school is operating. This creates a fiscal hardship for newly-established charter schools.

The Panel recommends that policy makers create a program that would allow Florida's corporations to dedicate a percentage of their income tax liability to be allocated as a recurring source of revenue available to provide facilities funding to be used for highly effective, highly fiscally-accountable charter schools.

Florida's "A-plus Plan" with its recognition dollars is an excellent incentive driven model for promoting academic excellence. In keeping with that model of funding, the Panel recommends the establishment of an incentive program that recognizes charter schools that exhibit academic and fiscal excellence. These schools will be expected to disseminate their best practices to other charters.

Either by department rule or legislative fiat, a designation should be created to identify and recognize the charter schools throughout the state that exhibit the highest standards of excellent in both fiscal and academic accountability. Those schools should be recognized and allowed to manifest this designation.

### **Student Achievement Data**

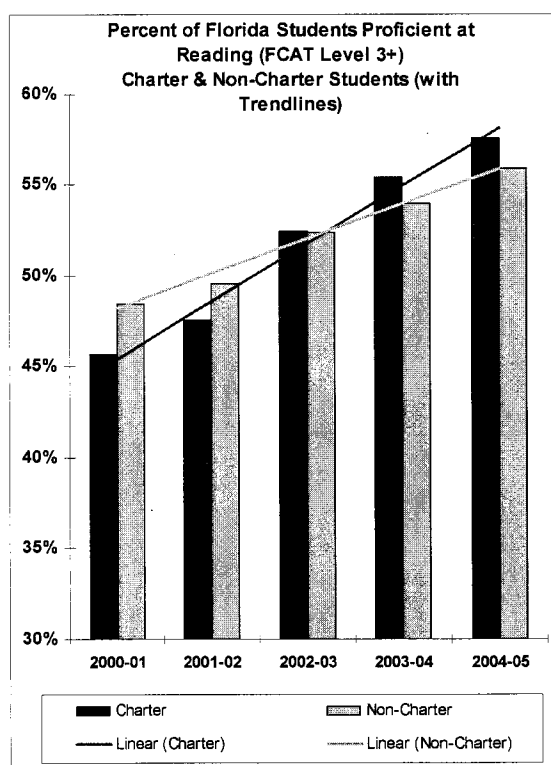
In the areas of quality and academic accountability, the Panel reviewed presentations on Student Achievement in Florida's Charter schools. Following is a summary of some of the data presented.

During the past five years, while growing rapidly in total numbers, the percentage of students testing proficient in reading (FCAT level 3+) at Florida's charter schools has also grown at a faster pace than the percentage of students testing proficient in reading at

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<sup>69</sup> Sheree Speakman, Bryan Hassel & Chester E. Finn, Jr., *Charter School Funding; Inequity's Next Frontier*, Thomas B. Fordham Institute, Washington, D.C. 2005.

the state's non-charter public schools. Two years ago, for example, 55% of Florida's charter school students tested proficient on the FCAT reading test compared to 54% of students at the state's non-charter public schools. Last year, 58% of Florida's charter school students tested proficient on the FCAT reading test compared to 56% of students at the state's non-charter public schools. That faster pace is evident in the steeper slope of the trend line shown for the percentage of Florida charter school students proficient at reading.



### *African American Student Reading Achievement Results*

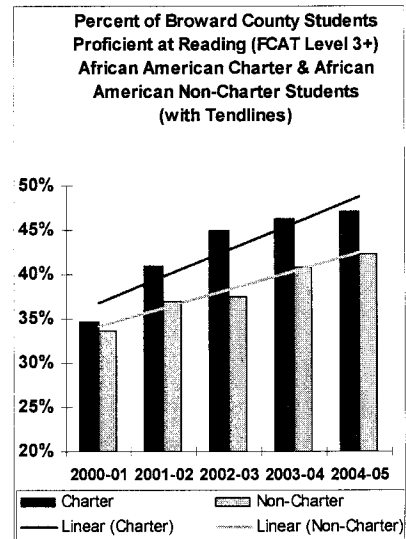
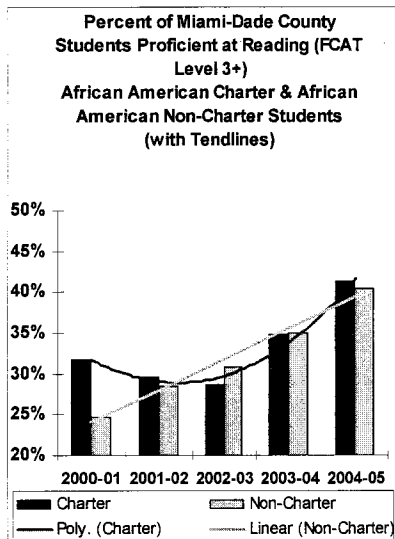
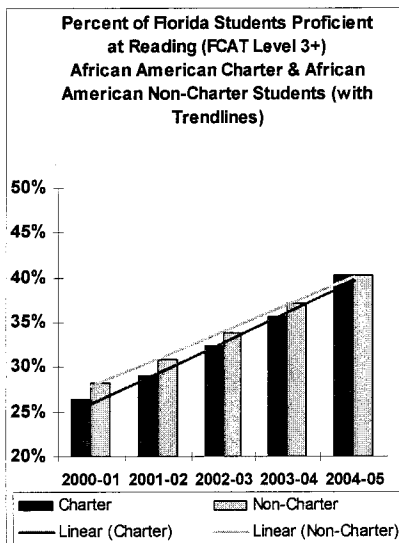
During the past five years, while growing rapidly in total numbers, the percentage of African American students testing proficient in reading (FCAT level 3+) at Florida's charter schools has also grown at a faster pace than the percentage of African American students testing proficient in reading at the state's non-charter public schools.

The three charts below show the percentage of African American students testing proficient (FCAT Level 3+) in reading at charter schools and non-charter schools in Florida, Miami-Dade County, and Broward County during the past five years. Although rising levels of reading proficiency is evident, the three charts are markedly different.

The percentage of Broward County's African-American charter school students testing proficient at the charter schools has increased at a faster rate than at the non-charter schools as evidenced by the steeper slope of the charter school trend line. This is

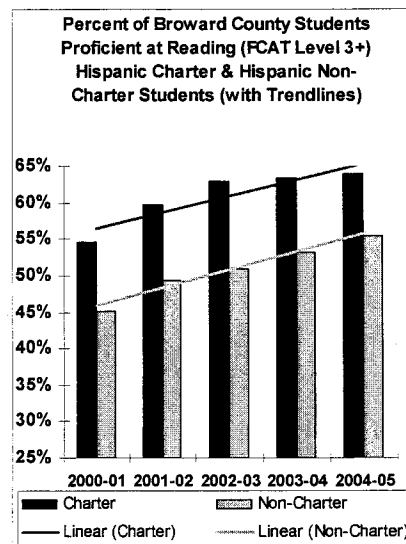
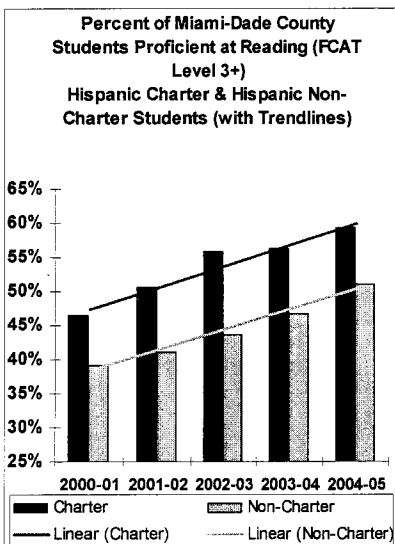
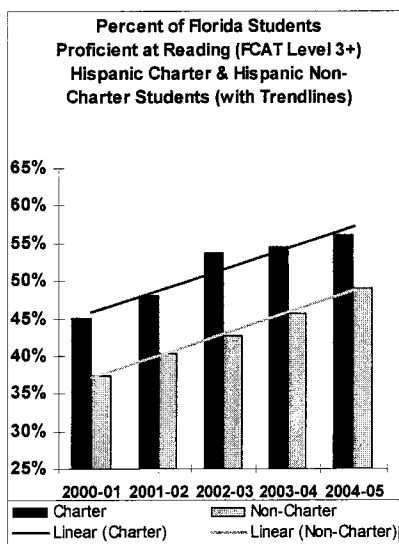


resulting in a significant narrowing of the historical achievement gap between African American and White students in the county.



### *Hispanic Student Reading Achievement Results*

During the past five years, while growing rapidly in total numbers, the percentage of Hispanic students testing proficient in reading (FCAT level 3+) at Florida's charter schools has also grown rapidly. The trend lines show that a greater percentage of Hispanic students at charter schools are testing proficient at reading than their peers at non-charter public schools. That is consistent statewide as well as in the state's two largest school districts. The gap is most pronounced in middle and high school programs. For example, in Miami-Dade County a 51% greater number of Hispanic charter school students tested proficient in reading this past year than their peers at non-charter public schools.



Hispanic students represent more than 60% of the student enrollment at Miami-Dade County's charter schools. This past year, 75% of Hispanic students at Miami-Dade's elementary charter schools and 79% of Hispanic students at Broward's elementary charter schools tested proficient in reading. Statewide, 79% of White non-charter elementary school students tested proficient in FCAT reading. Accordingly, there is no reading achievement gap between Hispanic students in Broward's charter schools and White students at the state's non-charter schools, and only a small gap for Miami-Dade county Hispanic charter school students and White students at the state's non-charter schools.





## National Alliance for Public Charter Schools

National Alliance for Public Charter Schools

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March 6, 2006

The Honorable John Stargel  
Chairman, Choice and Innovation Committee  
Florida House of Representatives  
Room 209, The Capitol  
Tallahassee, FL 32399

Dear Chairman Stargel:

I am writing to express the support of the National Alliance for Public Charter Schools for proposed legislation that would create a new statewide charter sponsor in Florida.

The public charter school movement is growing in Florida and achieving promising results. In this era of increasingly high expectations for all students, a plentiful supply of high-quality public charter schools should be encouraged. Current law allows only school districts (and in limited cases, state universities) to authorize public charter schools. By creating a new statewide sponsor devoted solely to authorizing and overseeing successful charter schools, Florida can maintain robust growth while strengthening quality.

Good charter authorization requires rigorous application processes, firm but supportive oversight, and reliable, transparent policies and procedures for funding and renewal. There are effective district authorizers, but for a statewide sponsor such as that proposed in this legislation, creating great charter schools will be its core mission. Single-purpose chartering boards have been successfully established in Arizona, Colorado, D.C., Idaho, and Utah, and we support the establishment of one in Florida.

We urge you to support this legislation. By doing so, you will help create an important new path for the public charter school community to meet the educational needs of Florida's families.

Sincerely,

Nelson Smith  
President

National Alliance for Public Charter Schools



## National Alliance for Public Charter Schools

The National Alliance for Public Charter Schools is the national nonprofit organization committed to advancing the charter school movement. Our ultimate goal is to increase the number of high-performing charter schools available to all families, particularly low-income and minority families who currently don't have access to quality public schools. The Alliance provides assistance to state charter school associations and resource centers, develops and advocates for improved public policies, and serves as the united voice for this large and diverse movement.

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